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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,796	10/22/2003	Darryl William Hester		5616

7590

06/08/2005

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EXAMINER

THOMPSON, HUGH B

ART UNIT PAPER NUMBER

3634

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,796

Applicant(s)

HESTER, DARRYL WILLIAM

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 5, 6, and 11, 12, 15, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 4 and 5, the claims appear to be duplicate claims, both dependent on claim 1.

With respect to claims 11, 12, 15, and 16, the applicant has failed to provide any structural relationships between toothbrush/device and the holder of the system.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Adriansen EPA #0 076 546. Adriansen discloses a holder comprised of a plurality of metal rigid geometric shaped body members 4, the body members having a front end that slidingly receives polymeric/deformable holding components 8 within recesses 16, which are used to frictionally retain elements therein.

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Claims 1, 2, 4, 5, 7, and 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulling #2,414,379. Kulling discloses a holder comprised of a wooden rigid geometric shaped body member 3, the body members having a front end that slidably receives a deformable holding component 2 within recessed area 13, the holding component having slots/recesses 7 therein, which is used to frictionally retain a toothbrush/dental device therein.

Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Bryson et al #4,871,074. Bryson et al disclose a wooden holder 10 comprised of a plurality of recessed rigid geometric shaped body members 18, the body members having a front end that slidably receives metal deformable holding components 28 within recesses 18, which are used to frictionally retain elements therein.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adriansen, Kulling, or Bryson et al as applied to claims 1, 2, and 4-9, and 1, 2, 4, 5, 7, and 11-18, and 1, 2, and 4-7, respectively, above, and further in view of Stotesbury #5,692,603. Adriansen, Kulling, or Bryson et al fail to disclose a plastic holder treated with antibacterial agents. Stotesbury, as recited in column 4, lines 1-6, and column 3, lines 34-39, teaches the utility of a

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plastic toothbrush holder 10, 12 treated with an antibacterial agent that reduces contamination of bacteria, viruses, etc on toothbrushes.

Therefore, to one of ordinary skill in the art, it would have been obvious to fabricate the holder of Adriansen, Kulling, or Bryson et al from plastic treated with antibacterial agents, so as to provide a lightweight holder that that reduces contamination of bacteria, viruses, etc on toothbrushes.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McMillan #1,972,532, Huber #3,063,569, Wood #3,421,632, Jelen #4,304,382, and Woo are cited to teach various types holders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II
Primary Examiner
Art Unit 3634

June 3, 2005